

OFFICIAL GAZETTE

GOVERNMENT OF GOA

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Legislature Department

Notification

LA/B/6491/89

The following bill which was introduced in the Legislative Assembly of Goa on 30-3-89 is hereby published for general information in pursuance of the provisions of Rule-136 of the Rules of procedure and Conduct of Business of the Legislative Assembly.

Panaji, 30th March, 1989.

The Goa Sales Tax (Amendment) Bill, 1989

(Bill No. 7 of 1989)

A

BILL

further to amend the Goa, Daman and Diu Sales Tax Act, 1964.

Be it enacted by the Legislative Assembly of Goa in the Fortieth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Goa Sales Tax (Amendment) Act, 1989.

(2) It shall come into force on such date as the Government may, by notification, in the Official Gazette, appoint.

2. *Amendment of section 1.*—In the Goa, Daman and Diu Sales Tax Act, 1964 (Act 4 of 1964) (hereinafter referred to as the "principal Act"), for the words "Goa, Daman and Diu", wherever they occur, the word "Goa" shall be substituted.

3. *Amendment of section 2.*—In section 2 of the principal Act,—

(i) after clause (aaaaaa), the following clause (aaaaaaa) shall be inserted, namely:—

"(aaaaaaa) 'casual trader' means a dealer who, whether as principal, agent, or in any other capacity, has occasional or seasonal transactions involving the selling, supply or distribution of goods in the State of Goa;"

(ii) for clause (b), the following clause shall be substituted, namely:—

"(b) 'dealer' means any person who carries on (whether regularly or otherwise) the business of selling, supplying or distributing goods, directly or indirectly, for cash or for deferred payment, or for commission, remuneration or other valuable consideration in Goa, and includes—

(i) a local authority, a body corporate, a company, a Hindu undivided family, any co-operative society or a club or other association of persons which sells goods to its members;

(ii) a factor, broker, commission agent, delcredre agent, or any other mercantile agent, by whatever name called, and whether of the same description as hereinabove mentioned or not, who carries on the business of selling, supplying or distributing goods belonging to any principal whether disclosed or not;

(iii) an auctioneer who carries on the business of selling or auctioning goods belonging to any principal, whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal;

(iv) a person engaged in the business of transfer (otherwise than in pursuance of a contract) of property in any goods for cash, deferred payment or other valuable consideration;

(v) a person engaged in the business of transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;

(vi) a person engaged in the business of delivery of goods on hire purchase or any system of payment by instalments; and

(vii) a person engaged in the business of transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration:

Explanation 1.—Every person who acts as an agent, in Goa, of a dealer residing outside that State and sells, supplies or distributes goods or acts on behalf of such dealer as—

(i) a mercantile agent as defined in the Sale of Goods Act, 1930 (Central Act 3 of 1930); or

(ii) an agent for handling of goods or documents of title relating to goods; or

(iii) an agent for the collection or the payment of the sale price of goods or as a guarantor for such collection or payment and every local branch or office in Goa of a firm registered outside Goa or a Company or other body corporate, the principal office or headquarters whereof is outside Goa shall be deemed to be a dealer for the purposes of this Act.

Explanation 2.—A Government which, whether or not in the course of business, sells, supplies or distributes, goods directly or otherwise, for cash or for deferred payment or for commission, remuneration or other valuable consideration, shall, in relation to any sale, supply or distribution of surplus, unserviceable or old stores or materials or waste products or obsolete or discarded machinery or parts or accessories thereof, be deemed to be a dealer for the purposes of this Act.

Explanation 3.—An agriculturist who sells exclusively agricultural produce grown on land cultivated by him personally shall not be deemed to be a dealer within the meaning of this clause.”;

(iii) for clause (c), the following clause shall be substituted, namely:—

“(c) ‘Goa’ means the ‘State of Goa’;”;

(iv) for clause (d), the following clause shall be substituted, namely:—

“(d) ‘goods’ means all kinds of movable property (other than newspapers, actionable claims, electricity, stocks and shares and securities) and includes all materials, commodities and articles (including those to be used in the construction, fitting out, improvement or repair of immovable property or used in the fitting out, improvement or repair of movable property) and every kind of property (whether as goods or in some other form) involved in the execution of a works contract, and all growing crops, grass or things attached to, or forming part of the land which are agreed to be severed before sale or under the contract of sale;”;

(v) after clause (f) and before clause (g), the following clause shall be inserted, namely:—

“(ff) ‘non-resident dealer’ means a dealer who has no place of business in Goa but who sells goods therein, or who sells goods from Goa to any place outside Goa;”;

(vi) for clause (k), the following clause shall be substituted, namely:—

“(k) ‘sale’ with all its grammatical variations and cognate expressions, means every transfer of the property in goods (other than by way of mortgage, hypothecation, charge or pledge) by one person to another in the course of trade or business for cash or for deferred payment or other valuable consideration, and includes—

(i) a transfer otherwise than in pursuance of a contract of property in any goods for cash, deferred payment or other valuable consideration;

(ii) a transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;

(iii) a delivery of goods on hire-purchase or any system of payment by instalments;

(iv) a transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable considerations.

Explanation 1.—(a) The sale or purchase of goods shall be deemed for the purposes of this Act, to have taken place in Goa wherever the contract of sale or purchase might have been made, if the goods are within Goa:—

(i) in the case of specific or ascertained goods, at the time the contract of sale or purchase is made; and

(ii) in the case of unascertained or future goods, at the time of their appropriation to the contract of sale or purchase by the seller or by the purchaser, whether the assent of the other party is prior or subsequent to such appropriation.

(b) Where there is a single contract of sale or purchase of goods situated at more places than one, the provisions of clause (a) shall apply as if these were separate contracts in respect of the goods at each of such places.

(c) Notwithstanding anything contained in the Sale of Goods Act, 1930 (Central Act 3 of 1930), for the purpose of this Act, the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract shall be deemed to have taken place in Goa, if the goods are within Goa at the time of such transfer, irrespective of the place where the agreement for works contract is made, whether the assent of the other party is prior or subsequent to such transfer.

(d) Notwithstanding anything contained in the Sale of Goods Act, 1930 (Central Act 3 of 1930), for the purpose of this Act, the transfer of the right to use any goods for any purpose (whether or not for a specified period) shall be deemed to have taken place in Goa, if such transfer is for use within Goa, irrespective of the place where the contract of transfer of right to use any goods is made.

Explanation 2.—Every transaction for supply by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service, is for cash, deferred payment or other valuable consideration, shall be deemed to be a sale of those goods by the person making the supply and purchase of those goods by the person to whom such supply is made.

Explanation 3.—“Works Contract” includes any agreement for carrying out for cash, deferred payment or other valuable consideration, the building, construction, manufacturing, processing, fabrication, erection, installation, fitting out, improvement, modification, repair

or commissioning of any movable or immovable property."

4. *Amendment of section 4.* — In section 4 of the principal Act, in clause (d) of sub-section (5), for the words "thirty thousand rupees", the words "fifty thousand rupees" shall be substituted.

5. *Insertion of new sections 4A and 4B.* — After section 4 of the principal Act, the following sections shall be inserted, namely: —

"4A. *Levy of tax on transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract.* — Notwithstanding anything contained in sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) of section 4 but subject to sub-section (5) of the said section, every dealer shall pay for each year, a tax under this Act on his taxable turnover of transfer of property in goods which has not suffered tax at any point of sale in Goa (whether as goods or in some other form) involved in the execution of works contract. The goods are liable for tax at rates mentioned in various Schedules.

4B. *Levy of tax on transfer of the right to use any goods.* — Notwithstanding anything contained in sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) of section 4 but subject to sub-section (5) of the said section, every dealer shall pay for each year a tax under this Act on his taxable turnover in respect of the transfer of the right to use any goods mentioned in column (2) of the Seventh Schedule for any purpose (whether or not for a specified period) at the rates to be notified by Government from time to time but subject to the maximum specified in the corresponding entries in column (3) of the said Schedule.

6. *Amendment of section 7.* — In section 7 of the principal Act, —

(i) In sub-section (1), after clause (bbb) and before clause (c), the following clauses shall be inserted, namely: —

"(bbbb) in respect of goods specified in the Sixth Schedule at the rates specified under column 3 therein;

"(bbbbb) in respect of goods specified in the Seventh Schedule at the rates specified under column 3 therein;

(ii) in sub-section (3), —

(i) in item (II) of the second proviso to clause (b), for the brackets and figure "(1)", the brackets and figure "(2)", shall be substituted;

(ii) the existing item (VI) shall be renumbered as item (VII) and before item (VII) so renumbered, the following item shall be inserted, namely: —

"(VI) goods utilised in the course of works contract by any dealer on which tax has already been paid at the point of sale/purchase by such dealer in Goa;"

7. *Amendment of section 10A.* — In sub-section (3) of section 10A of the principal Act, for the expression "assess the amount of tax so due", the expression "assess or reassess the amount of tax so due, and all the provisions of this Act and the rules made thereunder shall, so far as may be, apply accordingly, in respect of the assessment or reassessment of the tax, as the case may be" shall be substituted.

8. *Amendment of section 11.* — In section 11 of the principal Act, sub-sections (6), (7) and (8) shall be re-numbered as sub-sections (8), (9) and (10), and before sub-section (8) so renumbered, the following sub-sections shall be inserted, namely: —

"(6) The Commissioner may, for good and sufficient cause, forfeit the whole or any part of the security obtained under sub-section (5), —

(a) for realising any amount of tax or penalty payable by the dealer;

(b) if the dealer is found to have misused any of the forms referred to in clause (ii) of sub-section (5) or to have failed to keep them in proper custody:

Provided that no order shall be passed under this sub-section without giving the dealer an opportunity of being heard.

(7) where by reason of any order under sub-section (6), the security furnished by any dealer is rendered insufficient, the Commissioner may demand additional security from such dealer as he deems fit."

9. *Amendment of section 12.* — In sub-section (2) of section 12 of the principal Act, for the expression "of sub-sections (3), (4), (5), (7) and (8) of section 11", the expression "of sub-sections (3), (4), (5), (6), (7), (9) and (10) of section 11" shall be substituted.

10. *Amendment of section 13.* — In section 13 of the principal Act, —

(i) sub-section (3) shall be renumbered as sub-section (5) and before sub-section (5) so renumbered, the following sub-sections shall be inserted, namely: —

"(3) The Commissioner may, for good and sufficient cause, forfeit the whole or any part of the security obtained under sub-section (2), —

(a) for realising any amount of tax or penalty payable by the dealer;

(b) if the dealer is found to have misused any of the forms referred to in the first proviso to item (II) of sub-section (3) of section 7 or to have failed to keep them in proper custody:

Provided that no order shall be passed under this sub-section without giving the dealer an opportunity of being heard.

(4) Where by reason of any order under sub-section (3), the security furnished by any dealer is rendered insufficient, the Commissioner may demand additional security from such dealer as he deems fit;"

(ii) sub-section (4) shall be renumbered as sub-section (6) and in sub-section (6) so renumbered, for the expression "the provisions of sub-sections (4), (7) and (8) of section 11", the expression "the provisions of sub-sections (4), (9) and (10) of section 11" shall be substituted;

(iii) after sub-section (6) so renumbered, the following sub-section shall be added, namely:—

"(7) The Authority prescribed under sub-section (1) may on application made in this behalf and subject to such restrictions and conditions as it may impose, extend from time to time, the period specified in the provisional certificate of registration."

11. *Amendment of section 15.*—In section 15 of the principal Act,—

(i) in the proviso to clause (b) of sub-section (6), for the brackets and figure "(1)", the brackets and figure "(2)" shall be substituted.

(ii) After clause (b) of sub-section (7), the following proviso shall be inserted, namely:—

"Provided that, notwithstanding anything contained in this Act or in the rules made thereunder but subject to such conditions as the Government or the Commissioner, as the case may be, if it or he thinks fit, may by general or special order specify, where a dealer to whom incentives by way of deferment of sales tax has been granted by virtue of eligibility certificate, and where a loan liability equal to the amount of any such tax payable by such dealer has been raised by the Economic Development Corporation/Maharashtra State Financial Corporation/Scheduled Bank then such tax shall be deemed, in the public interest, to have been paid."

12. *Amendment of section 20.*—In section 20 of the principal Act, the existing provision of section shall be numbered as sub-section (1) and after sub-section (1) so numbered, the following sub-section (2) shall be inserted, namely:—

"(2) Every registered dealer shall ordinarily keep all his accounts, registers and documents relating to his stock of goods, or to purchase, sales and deliveries of goods made by him, at the place or places of business specified in his certificate of registration or, with the previous approval of the Commissioner, at such other place as may be approved by the Commissioner."

13. *Amendment of section 26.*—In section 26 of the principal Act, for the words, brackets and figure "sub-section (1)", the words, brackets and figure "sub-section (2)" shall be substituted.

14. *Insertion of new section 27A.*—The existing section 27A of the principal Act shall be renumbered as section 27B and before section 27B so renumbered, the following section shall be inserted, namely:—

"27A. *Determination of disputed questions.*—

(1) If any question arises, otherwise than in proceedings before a Court, or proceedings under

section 17 or section 18 or section 27, about the interpretation of any provisions of this Act,—

(a) any person, society, club, firm or any branch or department of any firm, or any association of persons is a dealer; or

(b) any particular thing done to any goods amounts to or results in the manufacture of goods within the meaning of the term "manufacture"; or

(c) any transaction is a sale; or

(d) any particular dealer is required to be registered; or

(e) any tax payable in respect of any particular sale or if the tax is payable, the rate thereof, the Commissioner upon application made in the prescribed manner, shall, after hearing the applicant and making such inquiries as may be necessary, make an order determining such question.

(2) The Commissioner may direct that the determination shall not affect the liability of any person under this Act, as respects any sale effected prior to such determination.

(3) If any such question arises from any order already passed under this Act, no such question shall be entertained for determination under this section; but such question may be raised in appeal against or by way of revision of such order."

15. *Amendment of section 28.*—In sub-section (8) of section 28 of the principal Act, for the expression "Court of the Judicial Commissioner of Goa, Daman and Diu", the expression "High Court of Judicature at Bombay, Goa Bench, Panaji" shall be substituted.

16. *Amendment of section 29.*—In section 29 of the principal Act,—

(i) in sub-section (1),—

(a) for the words, brackets and figure "sub-section (1)", the words, brackets and figure "sub-section (2)" shall be substituted;

(b) in clause (c), for the words, brackets and figure "sub-section (1)", the words, brackets and figure "sub-section (2)" shall be substituted.

(ii) in sub-section (2), in the proviso, for the words, brackets and figure "sub-section (1)", the words, brackets and figure "sub-section (2)" shall be substituted.

17. *Amendment of section 30.*—In sub-section (1) of section 30 of the principal Act,—

(i) in clause (k), for the expression "under sub-section (5) of section 11", the expression "under sections 11, 12 and 13" shall be substituted.

(ii) in the proviso, after the words and figures "under section 17 or section 31", the words and figures "or section 31A" shall be inserted.

18. *Amendment of section 31.*—In section 31 of the principal Act, in sub-section (1), for the words,

brackets and figure "sub-section (1)" wherever they occur, the words, brackets and figure "sub-section (2)" shall be substituted.

19. *Insertion of new Schedules.*—After the Fifth Schedule to the principal Act, the following Schedules shall be inserted, namely:—

The Sixth Schedule

(See clause (bbbb) of sub-section (1) of section 7)

1. Turnover of cooked food and non-alcoholic drinks served or sold or supplied for consumption at or outside any eating house, restaurant, hotel, refreshment room or boarding establishment which is not a shop or establishment conducted primarily for sale of sweetmeats, confectionery, cakes, biscuits or pastries shall be taxed at the following rates:

1	2	3
(a) Turnover upto Rs. 1,00,000/- Nil		
(b) Turnover above Rs. 1,00,000/- but upto Rs. 1,50,000/-	2% of the difference in the turnover over Rs. 1,00,000/-.	
(c) Turnover above Rs. 1,50,000/- but upto Rs. 2,00,000/-	Rs. 2,500/- + 4% of the difference of turnover over Rs. 1,50,000/-.	
(d) Turnover above Rs. 2,00,000/- but upto Rs. 2,50,000/-	Rs. 4,500/- + 6% of the difference of the turnover over Rs. 2,00,000/-.	
(e) Turnover above Rs. 2,50,000/- but upto Rs. 3,00,000/-	Rs. 7,500/- + 8% of the difference of the turnover over Rs. 2,50,000/-.	
(f) Turnover above Rs. 3,00,000/- but upto Rs. 3,50,000/-	Rs. 11,500/- + 10% of the difference of the turnover over Rs. 3,00,000/-.	
(g) Turnover above Rs. 3,50,000/- but upto Rs. 4,00,000/-	Rs. 16,500/- + 12% of the difference of the turnover over Rs. 3,50,000/-.	
(h) Turnover above Rs. 4,00,000/- but upto Rs. 4,50,000/-	Rs. 22,500/- + 12% of the difference of the turnover over Rs. 4,00,000/-.	
(i) Turnover above Rs. 4,50,000/- but upto Rs. 5,00,000/-	Rs. 28,500/- + 12% of the difference of the turnover over Rs. 4,50,000/-.	
(j) Turnover above Rs. 5,00,000/-	Rs. 60,000/- + 12% of the difference of the turnover over Rs. 5,00,000/-.	

The Seventh Schedule

(See clause (bbbbb) of sub-section (1) of section 7)

Sr. No.	Description of goods	Rate of tax
1	2	3
1.	Plant and machinery including Cranes	Twelve percent
2.	Television sets, video cassettes recorders and players, prerecorded video cassette and video game equipments.	Twelve percent
3.	Furniture of all kinds.	Twelve percent
4.	Crockery of all kinds.	Twelve percent
5.	Any item to be specified by Government by notification.	Twelve percent

Statement of Objects and Reasons

Certain difficulties are encountered in implementing the provisions of the Goa, Daman and Diu Sales

Tax Act, 1964. In order to overcome these difficulties, it is proposed to suitably amend the Goa, Daman and Diu Sales Tax Act, 1964.

This Bill seeks to achieve the above object.

Financial Memorandum

No additional expenditure is involved due to the proposed amendment since the existing machinery will carry out the work which may result on account of the proposed amendment.

Panaji,
5-3-1989

Assembly Hall
Panaji 29-3-89.

P. R. RANE
Chief Minister

M. M. NAIK
Secretary to the Legislative
Assembly of Goa.

Governor's recommendation under article 207 of the Constitution:

In pursuance of clause (1) & (3) of article 207 of the Constitution, the Governor of Goa has recommended to the Legislative Assembly of Goa, the introduction and consideration of "The Goa Sales Tax (Amendment) Bill, 1989".

(Annexure to Bill No. 7 of 1989)

The Goa Sales Tax (Amendment) Bill, 1988.

The Goa, Daman and Diu Sales Tax Act, 1964

(Act 4 of 1964)

Section 2 (aaaaaa) 'to cultivate personally' means to cultivate on one's own account—

(i) by one's own labour, or

(ii) by the labour of one's own family, or

(iii) by servants on wages payable in cash or kind (but not in crop share) or by hired labour under one's personal supervision or the personal supervision of any member of one's family;

Explanation I—A widow or a minor or a person who is subject to any physical or mental disability or is a serving member of the armed forces of the Union, shall be deemed to cultivate land personally if it is cultivated by her or his servants or by hired labour;

Explanation II—In the case of a Hindu undivided family, land shall be deemed to be cultivated personally, if it is cultivated by any member of such family;

Section 2 (b) 'dealer' means any person who sells, supplies or distributes goods directly or otherwise, in Goa, Daman and Diu in connection with his business and includes the Government of India, or of any State, or of any Union Territory, or a casual trader.

Provided that an agriculturist who sells exclusively agricultural produce grown on land cultivated by him personally, shall not be deemed to be a dealer within the meaning of this clause;

Explanation 1—A Hindu undivided family, a firm and any other association of persons whether incorporated or not will be deemed to be a person for the purpose of this definition.

Explanation 2—A co-operative society or a club or any association of persons, which sells goods to its members is a dealer;

Explanation 3—A factor, a broker, a commission agent, a del credere agent, an auctioneer or any other mercantile agent, by whatever name called, and whether of the same description as hereinbefore mentioned or not, [who sells goods in

connection with the business and who has authority to sell goods] belonging to a principal, is a dealer;

Explanation 4—The manager or an agent in Goa, Daman and Diu, of a dealer who resides outside Goa, Daman and Diu [but sells goods in connection with the business] in Goa, Daman and Diu shall, in respect of such business, be deemed to be a dealer;

Explanation 5—"Casual trader" means a dealer who has, whether as principal, agent, or in any other capacity, occasional transactions involving the selling, supply or distribution of goods in the Union territory of Goa, Daman and Diu;

(c) "Goa, Daman and Diu" means the Union Territory of Goa, Daman and Diu;

(d) 'goods' means all kinds of movable property (not being newspapers, actionable claims, stocks, shares, securities or money) and all materials, articles and commodities, including standing trees and things attached to or forming part of the land, which are agreed to be severed before sale or under the contract of sale;

(e) "Government" means Government of Goa, Daman and Diu;

(ee) "importer" means a dealer who brings any goods into Goa, Daman and Diu, or to whom any goods are despatched from any place outside Goa, Daman and Diu;

(f) "manufacture" with all its grammatical variations and cognate expressions means any process of producing, making, extracting, altering, ornamenting, finishing or otherwise processing, treating or adapting any goods [but does not include such manufactures or manufacturing processes as may be prescribed];

(g) "Official Gazette" means the Goa, Daman and Diu Gazette;

Section 2 (k) "sale" with its grammatical variations and cognate expressions, means any transfer of property in goods by one person to another for cash or deferred payment or other valuable consideration and includes a transfer of goods on hire purchase or other system of payment by instalments, but does not include a mortgage or hypothecation of or a charge or pledge on goods;

Explanation.—A sale or purchase of goods shall be deemed to take place inside Goa, Daman and Diu if the goods are within that territory—

(i) in the case of specific or ascertained goods, at the time the contract of sale is made; and

(ii) in the case of unascertained or future goods, at the time of their appropriation to the contract of sale by the seller or by the buyer, whether assent of the other party is prior or subsequent to such appropriation;

Section 4 (5) (d) in relation to any other dealer,—*thirty thousand rupees.*

Section 7 (1) (bbb) in respect, of goods specified in the Fifth Schedule at the rate of 15 paise in the rupee;

(c) in respect of any other goods, at the rate of [of 6 paise in the rupee];

Provided that the Government may, by notification in the Official Gazette add to, or omit from, or otherwise amend the First and the Third Schedules, without affecting the entries in the Second Schedule.

Provided further that if in respect of any goods or class of goods the Government is of opinion that it is expedient in the interest of the general public so to do, it may, by notification in the Official Gazette, direct that the tax in respect of the taxable turnover of such goods or class of goods shall, subject to such conditions as may be specified, be levied at such modified rate not exceeding the rate applicable under this sub-section as may be specified in the notification.

Section 7 (3) (b) **IIInd Proviso** Provided further that where any goods specified in the Certificate of Registration are purchased by a registered dealer for any of the purposes specified in item (a) or (b) but are utilised by him for any other purpose, or are not resold in the manner and within the period prescribed, the price of the goods so purchased shall be allowed to be deducted from the gross turnover of the selling dealer, but the Commissioner or any person appointed under sub-section (1) of section 3 to assist him

shall, after giving a reasonable opportunity of being heard, impose penalty upon the purchasing dealer not exceeding the amount of tax which would result if such goods were subject to sales tax at the rate leviable on them at the time of their purchase;

Section 10A (3) If the Commissioner or any person appointed under sub-section (2) of section 3 to assist the Commissioner, has reason to believe that the seller is liable to pay tax under sub-section (2), the Commissioner or the person appointed to assist the Commissioner shall, after giving him a reasonable opportunity of being heard, assess the amount of tax so due.

Section 11 (1) No dealer shall, while being liable to pay tax [under section 4, or section 6, or sub-section (6) of section 24 of the Act] carry on business as a dealer unless he has filed an application in accordance with sub-section (2) or has been registered and possesses a registration certificate under this Act.

(2) Every dealer required by sub-section (1) to be registered shall make application in this behalf in the prescribed manner and within the prescribed time to the prescribed authority.

(3) If the said authority is satisfied that the application for registration is in order, he shall, in accordance with such rules as may be prescribed, register the application and grant him a certificate of registration in the prescribed form which shall specify all his places of business and the class or classes of goods, for the purpose of clause (II) of sub-section (3) of section 7.

(4) The prescribed authority may from time to time amend any certificate of registration in accordance with information furnished under section 23 or otherwise received.

(5) The Commissioner may, for good and sufficient reasons, demand from a registered dealer or from a person who has applied for registration under this Act:—

(i) reasonable security for the proper payment of tax payable by him under this Act;

(ii) reasonable security for the proper custody and use of the forms referred to in the first proviso to clause (II) of sub-section (3) of section 7 which may be given to him by the prescribed authority.

(6) When any dealer has been convicted or has paid composition money under section 32, in respect of any contravention of sub-section (1) of this section, the prescribed authority shall register such dealer and grant him a certificate of registration, and such registration shall take effect as if it had been made under sub-section (3) of this section on the dealer's application.

(7) When—

(a) any business in respect of which a certificate has been granted to a dealer on an application made, has been discontinued or transferred, or

(b) a dealer has ceased to be liable to pay tax under section 4 of this Act, the Commissioner shall cancel the registration.

(8) The Commissioner may at any time for reasons to be recorded in writing and after giving the dealer an opportunity of being heard, cancel any certificate of registration.

Section 12 (2) The provisions of sub-section (3), (4), (5), (7) and (8) of section 11 shall apply in respect of applications for registration under this section.

Section 13 (3) Every person who has been granted a provisional certificate of registration under this section shall, for so long as such certificate is in force, be liable to pay tax under this Act.

(4) A provisional certificate of registration granted under this section shall be in force for such period as may be specified therein and the provisions of sub-sections (4), (7) and (8) of section 11 shall, so far as may be, apply to any such certificate of registration.

Section 15 (6) (b) the amount of penalty, if any, levied under the Act, shall be paid by the dealer or by the person liable therefor into the appropriate Government Treasury by such date as may be specified in a notice or order issued under the Act, being a date not earlier than sixty days from the date of service of the notice or order:

Provided that the Commissioner or any person appointed to assist him under sub-section (1) of section 3 of the Act, may, in respect of any particular dealer or person, and for reasons to be recorded in writing, extend the date of such payment, or allow him to pay the tax due or penalty, if any, or both by instalments.

Accounts.

Section 20. Every registered dealer or other dealer on whom a notice has been served to furnish returns under sub-section (2) of section 15, shall keep a true account of the value of goods bought, and sold by him and if the Commissioner considers that such account is not sufficiently clear and intelligible to enable him to make a proper check of the returns referred to in that sub-section, he may require such dealer by notice in writing to keep such accounts (including records of sales) as may be prescribed.

Section 26. Save as is provided in section 28, no assessment made and no order passed under this Act or the rules made thereunder by the Commissioner or any person appointed under sub-section (1) of section 3 to assist him shall be called in question in any Civil Court, and save as is provided in section 27, no appeal or application for revision or review shall lie against any such assessment or order.

Section 28. In this section, "Court" means the Court of the Judicial Commissioner, Goa, Daman and Diu.

Powers of the Commissioner etc. in certain matters.

Section 29 (1) The Commissioner or any person appointed to assist him under sub-section (1) of section 3 shall, for the purposes of this Act, have the same powers as are vested in a Civil Court under the law relating to Civil Procedure for the time being in force in Goa, Daman and Diu, when trying a suit, in respect of the following matters, namely:

(a) enforcing the attendance of any person and examining him on oath or affirmation;

(b) compelling the production of documents; and

(c) issuing commissions for the examination of witnesses; and any proceeding under this Act before the Commissioner or any person appointed to assist him under sub-section (1) of section 3 shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code.

(2) Subject to any rules made in this behalf, any authority referred to in sub-section (1) may impound and retain in its custody for such period as it thinks fit, any books of account or other documents produced before it, in any proceedings under this Act:

Provided that a person appointed to assist the Commissioner under sub-section (1) of section 3 shall not—

(a) impound any books of account or other documents without recording his reasons for so doing; or

(b) retain in his custody any such books or documents for a period exceeding thirty days without obtaining the approval of the Commissioner therefor.

Section 30(1)(k) fails to furnish the security demanded under sub-section (5) of section 11;

shall be punishable with simple imprisonment which may extend to six months or with fine or with both, and when the offence is a continuing one, with a daily fine not exceeding fifty rupees during the period of the continuance of the offence:

Provided that no prosecution for an offence against this Act shall be instituted in respect of the same facts in respect of which a penalty has been imposed under section 17 or section 31.

Section 31 (1) If the Commissioner or any person appointed under sub-section (1) of section 3 to assist him in the course of any proceedings under this Act is satisfied that a dealer has maintained false or incorrect accounts with a view to suppressing his sales, purchase, or stock of goods, or has concealed any particulars of his sales or purchases, or has furnished to, or produced before, any authority under this Act or the rules made thereunder, any account, return or information which is false or incorrect in any material particular, the Commissioner or any person appointed to assist him under sub-section (1) of section 3 may,

after giving the dealer a reasonable opportunity of being heard, direct him to pay, by way of penalty, in addition to the tax to which he is assessed or is liable to be assessed, an amount not exceeding one and half times the amount of tax which would have been avoided if the accounts or figures or particulars were accepted as correct.

(2) If any person purchasing goods is guilty of an offence under clause (c) or clause (d) of sub-section (1) of section 30, the authority which granted to him or as the case may be, is competent to grant to him a certificate of registration under this Act may, after giving him a reasonable opportunity of being heard, by order in writing, impose upon him by way of penalty a sum not exceeding one and a half times the tax which would have been levied under this Act in respect of the sale to him of the goods, if the offence had not been committed.

Assembly Hall,

Panaji,

29/3/1989.

M. M. NAIK

Secretary to the Legislative

Assembly of Goa.

LA/B/33/1989

The following bill which was introduced in the Legislative Assembly of Goa on 31-3-89 is hereby published for general information in pursuance of the provisions of Rule-136 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

Panaji, 3rd April, 1989.

The Maharashtra Co-operative Societies (Goa Amendment) Bill, 1989

(Bill No. 8 of 1989)

A

BILL

further to amend the Maharashtra Co-operative Societies Act, 1960 in its application to State of Goa.

Be it enacted by the Legislative Assembly of Goa in the Fortieth Year of the Republic of India as follows:—

1. *Short title and commencement.* — (1) This Act may be called the Maharashtra Co-operative Societies (Goa Amendment) Act, 1989.

2. It shall come into force at once.

3. *Amendment of Section 73H.* — After sub-section (2) of Section 73H of the Maharashtra Co-operative Societies Act 1960 as applied to the State of Goa (hereinafter referred as the 'principal Act') the following sub-section (2a) shall be inserted namely:—

(2a) Where any members are elected at general elections on the Committee of any society to which section 73H of the principal Act applies and the period of three years from the date of the first meeting is not over in their case before the amendment of sub-section (2) by the Maharashtra Co-operative Societies (Goa Amendment) Act, 1989 comes into force, such members shall be entitled to hold office for a period of five

years as provided in the said sub-section (2) as amended."

Statement of Objects and Reasons

The period of five years have been prescribed for the term of office of the members of the elected Committee as provided in section 73H of the Maharashtra Co-operative Societies Act, 1960 as applied to the State of Goa. The period of five years shall also be made applicable to the members elected before coming into force the Maharashtra Co-operative Societies (Goa Amendment) Act, 1989 by general election on the Committee of any society to which Section 73H of the principal Act applies and the period of three years from the date of the first meeting is not over.

This Bill seeks to achieve the above object.

Financial Memorandum

No financial implications are involved in this Bill.

Memorandum of Delegated Legislation

The Bill does not contemplate Delegation of Legislative power.

Panaji
29-3-1989

SHRI J. B. GONSALVES
M.L.A.

Assembly Hall

Panaji, 29-3-1989.

M. M. NAIK
Secretary to the Legislative
Assembly of Goa.